

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 151 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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KARADIA RAMA VIRA

Versus

MANSING LAKHMAN SOLANKI

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Appearance:

MR HJ NANAVATI for Petitioners

MR SURESH M SHAH for Respondent No. 1

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 01/07/98

ORAL JUDGEMENT

This appeal has been admitted and by consent of the learned advocates appearing for the parties, it is taken up for for final disposal today.

2. The defendants have carried the impugned order directing the defendants to maintain status quo with regard to the properties in question passed by the learned 2nd Joint Civil Judge, (S.D.), Junagadh on 9th January, 1998 in Special Civil Suit No. 8 of 1997 below Exh. 5 in this appeal from order. The defendants have mainly contended before this Court that there had been

partitioned or partial partition/s of properties or some of the properties in past and, therefore, in case, the defendants or some of them need the property/properties having gone to their respective shares to be disposed of, they would not be in a position to do so in view of the impugned order of status quo. Mr. S.M.Shah, learned advocate appearing for the respondent herein submits in reply that in such an eventuality, the concerned defendant may move an application before the trial Court seeking permission to dispose of the property/properties and in that event, the learned trial Judge might decide the application/s after hearing the parties. In view of such rival submissions, following directions are issued :

3. While maintaining the order passed by the learned trial Judge impugned in this appeal, it is clarified that the defendants-appellants will be at liberty to move appropriate application/s before the trial Court as and when they need to sell or transfer in any other manner the property/properties which they allege to have gone to their share, and they may apply before the trial Court seeking permission to sell - transfer such property/properties and the trial Court will decide such application/s after hearing the parties without being influenced by the impugned order. It will also be open to the parties to request the trial Court to have trial of the suit at the earliest. With this modification, this appeal is disposed of with no order as to costs.

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Vyas